

APPENDIX A

ARGONNE TERMS AND CONDITIONS

(For Commercial Items)

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1. ACCEPTANCE (OCT 1999)

Acceptance of this Purchase Order or contract (hereinafter called the “contract”) must be in accordance with and strictly limited to these Terms and Conditions. An attempted acknowledgment or acceptance which contains provisions conflicting or additional to these Terms and Conditions or which varies any term or condition shall have no force or effect. Performance by the contractor without an effective acknowledgment shall be deemed to be performance in accordance with the Terms and Conditions of this contract.

2. INSPECTION (OCT 1999)

The contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Laboratory reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Laboratory may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Laboratory must exercise its post acceptance rights (a) within a reasonable time after the defect was discovered or should have been discovered; and (b) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

3. ASSIGNMENT (OCT 1999)

Neither this contract nor any interest therein nor claim there under shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory; provided, that the contractor or its assignee's rights to be paid amounts due as a result of performance of this contract may be assigned to a bank, trust company or other financing institution, including any Federal lending institution. The Laboratory may assign this contract to a successor operator of the Laboratory.

4. CHANGES (OCT 1999)

Changes in the Terms and Conditions of this contract may be made only by written agreement of the parties.

5. DEFINITIONS (OCT 1999)

The clause at FAR 52.202-1, Definitions, is incorporated in this contract by reference.

6. EXCUSABLE DELAYS (OCT 1999)

The contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Laboratory, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of

common carriers. The contractor shall notify the Laboratory in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Laboratory of the cessation of such occurrence.

7. PAYMENTS (FEB 2004)

- (a) Payment shall be made for items accepted by the Laboratory that have been delivered to the delivery destinations set forth in this contract. Upon the submission of proper invoices or vouchers, the Laboratory shall make payment at the prices stipulated in this contract by check, electronic funds, or as the parties may otherwise agree. In connection with any discount offered for early payment, time shall be computed from the date the invoice is received at the Laboratory. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.
- (b) Property.
 - (1) Property shall mean all tangible personal property as identified in Argonne Form PD-150, Control of Government Property – Contractor Requirements, in the section entitled, “IDENTIFICATION” that has been purchased by the contractor in the performance of the contract for which cost the contractor is entitled to be reimbursed as a direct item of cost under this contract or for which the contractor has included the cost for such property in the fixed price charged to the Laboratory.
 - (2) All INVOICES submitted under contracts which contain Argonne Form PD-150, Control of Government Property – Contractor Requirements, shall be accompanied by the completed form entitled, Argonne National Laboratory Subcontract Property Management Government Property Acquisition Record, ANL-661.

THE LABORATORY WILL NOT ISSUE PAYMENT UNLESS A COMPLETED FORM ANL-661 IS INCLUDED WITH ALL INVOICES (REGARDLESS IF PROPERTY IS BEING INVOICED ON A PARTICULAR INVOICE OR NOT.)

8. BANKRUPTCY (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail, written notification of the bankruptcy to the Laboratory Procurement Official responsible for administering the contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for all Laboratory contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

9. RISK OF LOSS (OCT 1999)

Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the contractor until, and shall pass to the Laboratory upon:

- (a) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (b) Delivery of the supplies to the Laboratory at the destination specified in the contract, if transportation is f.o.b. destination.

10. TAXES (OCT 1999)

The contract price includes all applicable Federal, State, and local taxes and duties.

11. TERMINATION FOR THE LABORATORY'S CONVENIENCE (OCT 1999)

The Laboratory reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the contractor can demonstrate to the satisfaction of the Laboratory using its standard record keeping system, have resulted from the termination. The contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Laboratory any right to audit the contractor's records. The contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

12. TERMINATION FOR CAUSE (OCT 1999)

The Laboratory may terminate this contract, or any part hereof, for cause in the event of any material default by the contractor, or if the contractor fails to comply with any contract terms and conditions, or fails to provide the Laboratory, upon request, with adequate assurances of future performance. In the event of termination for cause, the Laboratory shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the Laboratory for any and all rights and remedies provided by law. If it is determined that the Laboratory improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

13. TITLE (OCT 1999)

Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Laboratory takes physical possession.

14. WARRANTY OF SUPPLIES (OCT 1999)

The contractor warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract. In addition to the Warranty Provisions herein, all computer software and hardware provided must be warranted to be Year 2000 compliant, as defined at FAR 39.002.

The contractor also shall provide products that meet EPA Energy Star requirements (where applicable) for energy efficiency. By acceptance of this contract, the contractor certifies that all products including microcomputers, personal computers, monitors, and printers to be provided under this contract meet EPA Energy Star requirements for energy efficiency. Where Energy Star products are not available, product provided must be in the upper 15 percent of energy efficiency.

15. WARRANTY OF SERVICES (OCT 1999)

(a.) Definitions

“Acceptance”, as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.

“Correction”, as used in this clause, means the elimination of a defect.

“Services”, as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b.) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the conclusiveness thereof, the contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in the workmanship and conform to the requirements of this contract.

(c.) If any of the services do not conform with contract requirements, the Laboratory may require the contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Laboratory may:

- (1) Require the contractor to take necessary action to ensure that future performance conforms to contract requirements; and
- (2) Reduce the contract price to reflect the reduced value of the services performed.

16. LIMITATION OF LIABILITY (OCT 1999)

Except as otherwise provided by an express or implied warranty, the contractor will not be liable to the Laboratory for consequential damages resulting from any defect or deficiencies in accepted items.

17. CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (DEC 2003)

The contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:

- (a) 52.219-8, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2)(3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceed \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
- (b) FAR 52.222-26, Equal Opportunity (APR 2002)(E.O. 11246);
- (c) FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001)(38 U.S.C. 4212(a));
- (d) FAR 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998)(29 U.S.C. 793);
- (e) FAR 52.222-41, Service Contract of 1965, as amended (41 U.S.C.351)
- (f) FAR 52.247-64 Preference for Privately Owned U.S. – Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 & 10 U.S.C. 2631)

18. OTHER COMPLIANCES (OCT 1999)

The contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

19. ENVIRONMENTAL PROTECTION (OCT 1999)

In performing this contract the contractor shall comply with the requirements set forth in all applicable Federal and non-Federal environmental protection laws, codes, ordinances, Executive Orders, regulations and directives.

20. AUTHORIZATION AND CONSENT (AUG 2002)

- (a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.
- (b) If the contractor is sued for copyright infringement or anticipates the filing of such a lawsuit, the contractor may request authorization and consent to copy a copyrighted work from the Laboratory Procurement Official. Programmatic necessity is a major consideration for DOE in determining whether to grant such request.
- (c)
 - (1) The contractor agrees to include, and require inclusion of, the Authorization and Consent clause at 52.227-1, without Alternate 1, but suitably modified to identify the parties, in all subcontracts expected to exceed \$100,000 at any tier for supplies or services, including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services.
 - (2) The contractor agrees to include, and require inclusion of, paragraph (a) of this Authorization and Consent clause, suitably modified to identify the parties, in all subcontracts at any tier for research and development activities expected to exceed \$100,000.
 - (3) Omission of an authorization and consent clause from any subcontract, including those valued less than \$100,000 does not affect this authorization and consent.

21. PATENT INDEMNITY - SUPPLIES AND SERVICES (OCT 1999)

If the amount of this contract is in excess of \$10,000, the contractor shall indemnify the Laboratory, the Government, and their officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except U.S. letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government or the Laboratory of such supplies or construction work. The foregoing indemnity shall not apply unless the contractor shall have been informed as soon as practicable by the Government (with notice to the Laboratory) of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to:

- (a) An infringement resulting from compliance with specific written instructions of the Laboratory or the Government directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the contractor;

- (b) An infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the contractor; or
- (c) A claimed infringement which is settled without the consent of the contractor, unless required by final decree of a court of competent jurisdiction.

22. REPORTING OF ROYALTIES (OCT 1999)

If this contract is in an amount which exceeds \$10,000 and if any royalty payments are directly involved in the contract or are reflected in the contract price to the Laboratory, The contractor agrees to report in writing to the Government through the Laboratory during the performance of this contract and prior to its completion or final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this contract together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which royalties are to be paid. The approval of DOE or the Laboratory of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

23. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)

The provisions of this clause shall be applicable only if the amount of this contract exceeds \$10,000.

- (a) The contractor shall report to the Government through the Laboratory promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the contractor has knowledge.
- (b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the contractor shall furnish to the Government when requested by the Government or the Laboratory, all evidence and information in possession of the contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the contractor has agreed to indemnify the Government or the Laboratory.
- (c) This clause shall be included in all subcontracts.

24. SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2004)

- (a) Definitions, as used in this clause --
“Commercial item,” means any item, other than real property, that is of a type customarily used for nongovernmental purposes and that has been sold, leased, or licensed to the general public;

or has been offered for sale, lease, or license to the general public. “Subcontract,” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the contractor or subcontractor at any tier.

- (b) To the maximum extent practicable, the contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.
- (c)
 - (1) The contractor shall insert the following clauses in subcontracts for commercial items:
 - (i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include the clause 52.219-8 “Utilization of Small Business Concerns” in lower tier subcontracts that offer subcontracting opportunities.
 - (ii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).
 - (iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212(a)).
 - (iv) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C.793).
 - (v) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flowdown required in accordance with paragraph (d) of FAR clause 52.247-64).
 - (2) While not required, the contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.
- (d) The contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

25. LABORATORY SITE ACCESS AND /OR PARTICIPATION IN ACTIVITIES BY NON-U.S. NATIONALS (DEC 2004)

Site Access

Site access, including cyber access utilizing a Laboratory account, by all non-U.S. citizens must be reviewed and approved by the Laboratory Director or his designee. All new requests must be submitted on Form ANL-593. Non-U.S. citizens are either visitors (on site for 30 days or less) or assignees (on site for more than 30 days in a 12-month period). A certified host must be assigned for each visit or assignment. Form ANL-593 should be submitted as far in advance as possible (a minimum of 30 days for a sensitive assignment, 7 days for a non-sensitive country assignment or visit or sensitive visit.)

For assignments (more than 30 days) involving a foreign national from a “Sensitive Country”, and/or access to a security area of the Laboratory or access to a sensitive subject, at least 30 days advance notice should be provided to ensure that Security, Counterintelligence, and Export Control reviews can be accomplished, and a DOE indices check can be completed prior to approval. In such cases, a specific security plan is required to be submitted to the Foreign Visits and Assignments Office with the ANL-593 form requesting the visit by the Hosting Division. An indices check normally takes 30 days after completion of all required pre-clearance documents, but can take considerably longer (once obtained, an indices check is valid for two years).

For visits or assignments involving a foreign national from a “Terrorist Supporting Country”, (which currently include: Cuba, Iran, Libya, North Korea, Sudan, Syria), specific approval of the visit/assignment by the Secretary of Energy or his designees is required. This approval, if granted, may take up to one year after the internal approvals have been processed.

The time frames indicated above shall not constitute the basis for any equitable adjustment or claim to the contract price or performance/delivery period.

For assistance in preparing a request, contact the Argonne Technical Investigator associated with your activity.

Activity Participation

Due to Department of Energy directives and Department of Commerce regulations, persons who are born in (and who are not naturalized U. S. Citizens) or are citizens of any “Terrorist Supporting Country” may be denied access and/or participation in activities with Argonne National Laboratory.

The requirement is to be flowed-down to all subcontractors at any tier.

26. EXPORT LICENSE AGREEMENT (AUG 2002)

The contractor understands that the materials and/or information being transmitted under the performance of this contract may be subject to U.S. Government laws and regulations regarding export or re-export. This includes deemed exports which are any communication of technical data to a foreign national, whether it takes place in the United States or abroad. Technical information (data) provided to a foreign national verbally, by mail, by telephone or facsimile, through visits or workshops, or through

computer networking is an export. If a foreign national observes equipment or a process, it may constitute an export of technical data, if significant details are revealed. It is solely the contractor's obligation to obtain all appropriate export licenses, keep required records, and comply fully with all export control statutes and regulations. Unless authorized by appropriate government license or regulation, contractor agrees not to export directly or indirectly any technology, software or materials provided by the Laboratory. Contractor shall be solely liable for any violation of export control statutes or regulations, and shall indemnify and hold the Department of Energy, The University of Chicago, and the Laboratory harmless from any liability that may arise for any such violation.

27. EXPORT CONTROL INFORMATION FOR FOREIGN TRAVEL (NOV 2002)

The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its employees undertake to further its research and technology development mission is excepted from U.S. export control regulations, the Laboratory must abide by all of the export control laws and regulations to ensure its compliance with export controls.

An export can occur through a variety of means, including oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting their country are considered exports. You and the Laboratory can be held liable for improperly transferring controlled technologies.

Prior to transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:

- Fundamental research and information resulting from fundamental research
- Published information and software (publicly available) education information
- Patent applications

If the information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export.

To further ensure that you do not run the risk of exporting sensitive information or technology when traveling abroad, keep the following guidelines in mind that without having acquired an export license prior to your trip, presentations and discussions must be limited to only those topics that are not on the DOE Sensitive Subjects List and the Argonne Sensitive Technologies and not related to controlled items or technologies unless they are in the public domain. Further elaboration, or additional details, may be considered an export of technologies and need an export license prior to release.

28. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

- (a) The contractor shall comply with the requirements of the “DOE Contractor Employee Protection Program” at 10CFR Part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.
- (b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

29. VEHICLE LIABILITY INSURANCE COVERAGE (OCT 1999)

In the event a Government or Laboratory vehicle (including Laboratory-rented vehicle) will be utilized by the contractor during the course of work under this contract, contractor agrees to obtain and maintain appropriate levels of automobile liability coverage for property damage and bodily injury and such insurance shall be primary.

30. INTEGRATION CLAUSE (OCT 1999)

This contract represents the full understanding of the parties and is the entire agreement between the parties. All negotiations between the parties have been merged into the contract and there are no understandings or agreements other than those incorporated into this contract.

31. PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

- (a) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- (b) The contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.
- (c) The contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

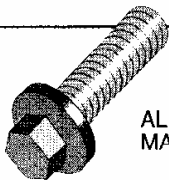
32. EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

- (a) Unless the contractor is a State or local government agency, the contractor shall report at least annually, as required by the Secretary of Labor, on—
 - (1) The number of special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans in the workforce of the contractor by job category and hiring location; and
 - (2) The total number of new employees hired during the period covered by the report, and of the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and
 - (3) The maximum number and the minimum number of employees of the contractor during the period covered by the report.
- (b) The contractor shall report the above items by completing the Form VETS-100, entitled “Federal Contractor Veterans Employment Report (VETS-100 Report)”.
- (c) The contractor shall submit VETS-100 Reports no later than September 30 of each year beginning September 30, 1988.
- (d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. contractors may select an ending date—
 - (1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or
 - (2) As of December 31, if the contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).
- (e) The contractor shall base the count of veterans reported according to paragraph (a) of this clause on voluntary disclosure. Each contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the contractor. The invitation shall state that—
 - (1) The information is voluntarily provided;
 - (2) The information will be kept confidential;

- (3) Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and
- (4) The information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.
- (f) The contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

33. SUSPECT COUNTERFEIT PARTS (AUGUST 2005)

- (a) “Suspect/Counterfeit Parts” are parts that may be of new manufacture but labeled to represent a different class of parts or used and/or refurbished parts with false labeling representing them as new parts or a manufacturer other than the actual manufacturer. Examples of suspect/counterfeit parts that have been prominent include:
 - (1) Fasteners, including bolts and nuts, made of carbon steel (designated as grade five or grade eight) or stainless steel, with headmarks or stamps shown on the headmark list prepared by the United States Customs Service (see Attachment I to this clause, or its latest revision);
 - (2) Piping, valves and flanges bearing labels that falsely indicate that the items meet recognized ASME, ASTM, or other consensus standards, or falsely bear independent testing laboratory markings; and,
 - (3) Used or refurbished molded-case electrical circuit breakers or similar type switch gear.
- (b) Supplies furnished to the Laboratory under this contract shall not include suspect/counterfeit parts nor shall such parts be used in performing any work under this contract whether on or off the Laboratory site.
- (c) If suspect/counterfeit parts are furnished under this contract and are found on the Laboratory site, such parts, items or assemblies containing such parts may be impounded by the Laboratory or removed by the contractor as directed by the Laboratory. The contractor shall promptly replace such parts with supplies acceptable to the Laboratory and the contractor shall be liable for all costs, including but not limited to the costs for impoundment, removal, and replacement incurred by the Laboratory as a result of furnished suspect/counterfeit parts. The Laboratory is obligated to report discovery of suspect/counterfeit parts or items to the Department of Energy and such reports may be referred to the Department of Justice.
- (d) The rights of the Laboratory in this clause are in addition to any other rights provided by law or under this contract.

SUSPECT/COUNTERFEIT PART**HEADMARK LIST**

ALL GRADE 5 AND GRADE 8 FASTENERS OF FOREIGN ORIGIN WHICH DO NOT BEAR ANY MANUFACTURERS' HEADMARKS



Grade 5



Grade 8

GRADE 5 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:



MARK

MANUFACTURER

J

Jinn Her (TW)



MARK

MANUFACTURER

KS

Kosaka Kogyo (JP)

GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:



MARK

MANUFACTURER

A

Asahi Mfg. (JP)



NF

Nippon Fasteners (JP)



H

Hinomoto Metal (JP)



M

Minamida Sieybo (JP)



MS

Minato Kogyo (JP)

Hollow
Triangle

Infasco (CA TW JP YU) (Greater than 1/2 inch dia)



E

Daiei (JP)



KS

Kosaka Kogyo (JP)



RT

Takai Ltd (JP)



FM

Fastener Co of Japan (JP)



KY

Kyoei Mfg (JP)



J

Jinn Her (TW)



UNY

Unytite (JP)

GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:



MARK MANUFACTURER

KS

Kosaka Kogyo (JP)

GRADE A325 FASTENERS (BENNETT DENVER TARGET ONLY) WITH THE FOLLOWING HEADMARKS:

Type 1



MARK MANUFACTURER

A325 KS

Kosaka Kogyo (JP)

Type 2



Type 3



Headmarkings are usually raised – sometimes indented.

KEY: CA-Canada, JP-Japan, TW-Taiwan, YU-Yugoslavia



ANY BOLT ON THIS LIST SHOULD BE TREATED AS DEFECTIVE WITHOUT FURTHER TESTING.

OR, IF YOU SEE ANY INDICATION THAT A CIRCUIT BREAKER MAY BE USED OR REFURBISHED (SEE BULLETIN, NO. DOE/EH-0266)